CONFERENCE OF PHARMACEUTICAL LAW ENFORCEMENT OFFICIALS

ABSTRACT OF THE MINUTES.

The two sessions of the Ninth Annual Meeting of the Conference were held in the Hotel Pennsylvania, New York City.

The First Session was convened by Chairman R. L. Swain, at 9:15 P.M. in Parlor A with the following present:

A. L. I. Winne, Virginia	Jerry McQuade, New York	Burton K. Murdock, Maine
W. E. Locke, Virginia	P. H. Costello, North Dakota	C. W. Collins, West Virginia
R. L. Crouch, Virginia	R. B. Rothrock, Indiana	S. H. Dretzka, Wisconsin
R. P. Fischelis, New Jersey	Henry F. Hein, Texas	R. D. Dame, Wyoming
P. H. Jackson, New Jersey	Chas. J. Clayton, Colorado	R. B. J. Stanbury, Canada
John J. Debus, New Jersey	A. Norman LaSalle, Rhode Island	Samuel Shkolnik, Illinois
F. C. A. Schaefer, New York	Geo. A. Moulton, New Hampshire	E. F. Kelly, Washington, D.C.
Hugo H. Schaefer, New York	Lew Wallace, Mississippi	L. M. Kantner, Maryland
J. Leon Lascoff, New York	Chas. E. Wilson, Mississippi	R. L. Swain, Maryland
Robert R. Gerstner, New York	Victor E. Feit, Minnesota	F. H. King, Ohio
Nicholas S. Gesoalde, New York	J. G. Pasternacki, Minnesota	T. J. Ryan, Ohio
Geo. Bruno, New York	E. J. Prochaska, Minnesota	M. N. Ford, Ohio
Samuel F. Friend, New York	A. L. Rivard, Maine	

Chairman Swain stated a report of the conference would appear in the Proceedings Number, November issue of the JOURNAL, and he requested a written statement be furnished for publication by those who took part in the program.

Chairman Swain appointed Messrs. R. P. Fischelis, F. C. A. Schaefer and A. N. Lasalle, as members of the Committee on Resolutions and Messrs. A. L. I. Winne, P. H. Costello and L. M. Kantner, as members of the Committee on Nominations.

REPORT OF THE SECRETARY AND TREASURER.

The following report was read by Secretary-Treasurer M. N. Ford:

Since the last annual meeting of the conference the secretary has mailed to members of the conference and others interested a number of Court decisions, opinions and committee reports as follows. In the case of State of Montana *vs.* I. W. Stevens holding unconstitutional an act purported to limit the sale of drugs and medicines when sold in the manufacturer's original package to pharmacists; in the Massachusetts Supreme Court, Liggett Drug Company Inc. *vs.* Board of License Commissioners in which the Court held the Department had the right to refuse a permit to serve food on the premises of a drug store and a department store; in the Supreme Court of Indiana in the case of Carroll Perfumers Inc. *vs.* State of Indiana holding the Carroll Perfumers Incorporated to be drug stores and subject to all the provisions of the Pharmacy act of the state; an opinion from the Attorney General of the State of Ohio holding a Corporation may be formed for the purpose of operating and conducting drug stores and pharmacies even though the practice of pharmacy is considered a statutory profession, providing of course they fully comply with the provisions of section 12705 of the General Code; a reprint of Dr. Swains' report of the committee on development of pharmacy laws and also a report of the committee of the study of the modernization of pharmacy laws.

Finances.—Since the last annual meeting we have received from Chairman Schaefer of the Finance Committee the following contributions:

September 19, 1936	Kansas	$ 10.00
November 10, 1936	Wisconsin	5.00
June 3, 1937	Ohio	10.00
June 3, 1937	Colorado	10.00
June 3, 1937	Arkansas	10.00
June 3, 1937	New Jersey	10.00

June	3, 1937	North Dakota	10.00
June	3, 1937	Virginia	5.00
June	11, 1937	Iowa	10.00
June	28, 1937	New York	10.00
June	28, 1937	Maryland	10.00
June	28, 1937	Kansas	10.00
June	28, 1937	Oregon	5.00
July	19, 1937	Delaware	10.00
July	19, 1937	Minnesota	10.00
August	12, 1937	West Virginia	5.00
Total			$140.00
Balance on Hand			490.71
Total Receipts			$630.71

EXPENDITURES.

May 14, 1937	A. PH. A. reprints	$ 6.17	
May 27, 1937	M. Ginn and Co., Letter Heads	4.50	
July 1, 1937	Postage and Paper (4 years)	42.70	
Total Expenses			$ 53.37
Balance on Hand to Date			$577.34

Chairman Fred Schaefer of the Finance Committee reported that his committee had made the customary request from the Boards of Pharmacy for a ten-dollar contribution and the report just read shows the amount received, although other contributions were anticipated.

At this time Chairman Swain made the following address.

PHARMACY LAW ENFORCEMENT.

While pharmaceutical legislation has been on the statute books of most of our states for many years, they have not as a rule been subjected to judicial interpretation and review. While it is true that the law reports include many cases involving drugs and medicines, most of them deal with questions of negligence in the compounding of prescriptions, negligence in the labeling and selling of poisons, or negligence in meeting some other common law obligations. The statutory requirements of the pharmacy acts have been before the courts so seldom that there is little in the way of judicial interpretation. As a general rule, it can be said that many of the most important requirements of these acts have yet to be explored before their meaning can be definitely understood. For this reason, in this brief address as chairman of the Conference of Pharmaceutical Law Enforcement Officials, I shall give close attention to a few recent supreme court decisions in our field, which have shed some light on some of our most important questions.

The laws of many of the states provide that retail drug stores may operate only under annual permits granted by the board of pharmacy. While the objective of each of these acts would appear to be the same, there is great diversity in the language authorizing a permit as well as a marked difference in the powers of the board with respect to the granting of said permits. In some instances, the board seems to be vested with discretionary powers, in others the acts specify the requirements which must be met before the permit is issued, while in still others, the permit seems to be granted as a matter of course, as the acts in these cases do not expressly vest the board with discretionary powers, and no conditions are set up to which the permittee must conform.

These points are well illustrated in the following quotations from state pharmacy laws:

Arkansas.—Permit is granted by the board of pharmacy "to such persons, firms, corporations as they may deem to be qualified to conduct such drug store, pharmacy or apothecary shop."

Alabama.—Permit is granted "if the application is found to be satisfactory by the board of pharmacy."

North Carolina.—Permit is granted by the board of pharmacy. The board does not appear to have any discretionary powers in the matter.

Minnesota.—The board is required to issue a license "to such persons as may be qualified by law to conduct a pharmacy."

Colorado.—The board is directed to authorize a permit after satisfying itself "that the same is conducted according to law."

Pennsylvania.—"No permit shall be issued unless it appears to the satisfaction of the board that the management of the pharmacy is in charge of a pharmacist registered under the provisions of the act."

Indiana.—Permit is to be issued "if the application is in proper form and contains the necessary and requisite information.....the applicant to be a person of good moral character .....and if the application is found to be satisfactory."

New Jersey.—Permit is to be issued "if it appears to the satisfaction of the board of pharmacy that the management of the pharmacy or drug store is in personal and continuous charge of a pharmacist, registered in accordance with the laws of this State."

The only case, dealing directly with the power vested in boards of pharmacy in the matter of granting of drug store permits, that has come to my attention is Breslow *vs.* State Board of Pharmacy of South Dakota. The opinion of the court in this case, as well as the brief submitted by the board of pharmacy, was sent to the secretary of every state board of pharmacy on January 1, 1937, by the secretary of this Conference. However, let us consider this case briefly:

The law of South Dakota contains this provision: "The South Dakota State Board of Pharmacy shall issue a permit to conduct a pharmacy to such persons qualified by law." The act also contains this provision: "No permit shall be issued unless it appears to the satisfaction of the board that the management of the pharmacy is in charge of a registered pharmacist."

In the brief, submitted by the Board of Pharmacy, it is stated:

"While we admit that there is no direct statement contained in Chapter 206 of the Laws of 1931, wherein it is stated in so many words that the Board may use its discretion in granting or refusing a license to operate a pharmacy, there is a statement to the following effect, namely, 'The South Dakota State Board of Pharmacy shall issue a permit to conduct a pharmacy to such persons *who are qualified by law.*' This last quoted statement, together with the many statements, contained in the general pharmacy laws, above referred to, seems clearly to indicate that the Legislature intended that the Board should use its discretion in determining who was and who was not *qualified by law* to have a permit to operate a pharmacy.

"In this same section 2, above referred to, there is this further statement, namely: 'No permit shall be issued unless it appears *to the satisfaction* of the Board that the *management* of the pharmacy is in charge of a registered pharmacist.'

"Who is to determine that fact, if not the Board of Pharmacy? A registered pharmacist may be employed in a pharmacy, but that does not, of necessity, place him *in management* of the pharmacy. His employment may be such as to place him in complete domination by the owner or the store manager—not a licensed pharmacist. The Legislature clearly intended, by those words, to leave it to the discretion of the Board of Pharmacy, to determine to its satisfaction, whether or not, where a non-licensed owner had in his employ a licensed pharmacist, such licensed pharmacist was or was not in management of the pharmacy department of the owner's establishment."

The findings of facts by the court were as follows:

I.

That plaintiff has for several months last past owned and operated a pharmacy in the City of Sioux Falls, South Dakota; that plaintiff is not a licensed pharmacist of the State of South Dakota, and has no permit from the defendants, State Board of Pharmacy, as required by Chapter 206 South Dakota Laws 1931, to operate said pharmacy; that for sometime plaintiff operated said pharmacy, without having a licensed pharmacist in his employ or in charge of plaintiff's stock of drugs in said pharmacy, but now has a licensed pharmacist in his employ in said pharmacy.

II.

That plaintiff made application in proper form to the defendants, State Board of Pharmacy, for a permit to operate said pharmacy, and paid the required fee as required by the provisions of Chapter 206 South Dakota Laws 1931, but such application was denied and permit refused by the defendants, State Board of Pharmacy, and said fee was returned by said Board to the plaintiff.

III.

That the defendants, Henry J. Schnaidt, E. C. Severin and H. A. Sasse, at the time the above entitled action was instituted, constituted the only elected, qualified and acting Board of Pharmacy of the State of South Dakota; that subsequent to the instituting of said action George W. Lloyd was appointed to said Board to take the place of Henry J. Schnaidt, and by stipulation of counsel dictated to the record, was substituted for the said Henry J. Schnaidt as one of the defendants.

IV.

That the constitutionality of Chapter 206 South Dakota Laws 1931, and no part thereof, is in no way raised by the record, or in no way involved as an issue in the trial of the within action.

V.

That the defendants, State Board of Pharmacy, did not deny plaintiff's application or permit, because plaintiff was not a licensed pharmacist of South Dakota, but denied plaintiff's application and permit solely because it believed that plaintiff's past record and character were bad, and such that it unfitted him to operate a pharmacy within the state.

VI.

That prior to the defendants, State Board of Pharmacy, acting on plaintiff's said application it made investigation and had evidence, which it considered authentic, that plaintiff had been prosecuted and convicted in the Federal Court in the State of North Dakota of selling liquor, unlawfully, in the City of Bismarck, North Dakota; also that one of plaintiff's employees, in the pharmacy which plaintiff then operated in Bismarck, North Dakota, had been prosecuted and convicted in the State of North Dakota, of unlawfully engaging in the liquor traffic; also that plaintiff had been prosecuted and convicted in the Municipal Court of the City of Minneapolis, Minnesota, in one case, for violating the drug laws of the State of Minnesota, and, in another case, of driving an automobile while intoxicated; also that plaintiff had narcotics, such as opium, morphine, cocaine and other narcotic drugs, in his said pharmacy in Sioux Falls, South Dakota without a license and in violation of law; also that plaintiff had unlawfully sold various drugs, other than patent or proprietary medicines, from said pharmacy, at a time when plaintiff had no licensed pharmacist in his employ or in charge of his stock of drugs, and at which time plaintiff himself was not a registered pharmacist of South Dakota; that said defendants believed in the truth of said evidence, and believed it would be contrary to good morals and to the public health, peace and safety of the community to permit the plaintiff to operate a pharmacy, because of such criminal record, and that thereupon, *on the assumption that they had the power to do so*, denied plaintiff's said application and permit.

VII.

That the defendants, State Board of Pharmacy, acted in good faith, denying plaintiff's said application and permit, and did not act arbitrarily or from a sense of prejudice against the plaintiff.

From the foregoing findings of facts, the court held as conclusions of law that the board was fully justified in refusing to grant the plaintiff the permit applied for, and that the plaintiff's action should be dismissed upon its merits. Clearly this case is authority for the doctrine that boards of pharmacy are vested with discretionary powers with respect to granting permits for the operation of drug stores, even in those cases where the statute itself does not in so many words confer discretion upon the board. Unfortunately, this case was not appealed, and, therefore, we do not know just what would have been the pronouncement of the highest court in the state upon the subject.

A very recent case, bearing upon the authority vested in boards of pharmacy to refuse permits for the operation of a drug store or to revoke a permit once issued, came up in West Virginia in the case of the Board of Pharmacy *vs.* the Sun Drug Company, Huntington, West Virginia. The board issued a permit to this concern in January 1937. After the issuance of the permit, information came to the attention of the West Virginia Board of Pharmacy that the conditions

underlying the permit had been violated, and upon a thorough investigation of the case, the board made complaint against the Sun Drug Company on the following statement of facts, alleging violation of the law in these respects:

1. In the sale of, and in otherwise dispensing pharmaceuticals, the handling of which is restricted to pharmacists, and medicinal preparations requiring the prescriptions of a licensed physician, other than by and through a duly registered pharmacist.

2. In keeping of proper records and the sale of, and in otherwise dispensing, handling and dealing in hypnotics and in narcotics, Classes 3 and 5, as defined by Federal and State laws and regulations based thereon.

3. The proper display of licenses as required by law.

4. In the stocking, labeling, exhibiting for sale and selling "Alophen Pills," "Caroid and Bile Salts Tablets," "Sodium Amytal" and other preparations which an examination caused to be made by said Board of Pharmacy above were adulterated and only an imitation or imitations of the preparation or preparations, drug or drugs, medicine or medicines, they purported to be, to the detriment of the public health and welfare.

The charges were later the subject of a hearing before the board, finally resulting in the revocation of the permit. The Sun Drug Company petitioned the Circuit Court of Cabell County, West Virginia, for a review of the matter, alleging that it had not been guilty of any violation of the law, and that action of the board was contrary to the petitioners' rights as citizens and licensed operators of a drug store, and in violation of the constitution and laws of the State of West Virginia, and the constitution of the United States of America. The petition for a review was denied, and the findings and action of the board of pharmacy affirmed in all respects. This case also strongly supports the contention that boards of pharmacy have discretionary powers in the matter of granting permits for the operation of retail drug stores.

It will be noted, from the few excerpts given above of the State pharmacy acts, that in several instances discretion is plainly inferred, as the permit in those cases is to be granted in the event that the facts set out in the application are satisfactory to the board.

It is believed, however, that it would be wise to be more explicit in laws providing for drug store permits, and that the discretionary powers should be expressly vested in the board. An instance of a more modern legislative point of view is found in the Pharmacy Act of Maryland, enacted in 1935. The provision of the Maryland act is that a permit shall be issued for the operation of a drug store on evidence satisfactory to the Maryland Board of Pharmacy:

1. That the pharmacy for which the permit is sought will be conducted in full compliance with the law and with the rules and regulations of the said Maryland Board of Pharmacy.

2. That the location and appointments of said pharmacy are such that it can be operated and maintained without endangering the public health or safety.

3. That said pharmacy will be constantly under the personal and immediate supervision of a registered pharmacist, a permit shall be issued to such persons, copartnerships, associations or corporations as the said Maryland Board of Pharmacy shall deem qualified to conduct such pharmacy.

Until the highest courts in the states have ruled upon this specific provision of the pharmacy acts, some uncertainty must be entertained as to the legal sufficiency of the authority of the board of pharmacy to grant permits for the operation of drug stores. It is my belief, however, that this uncertainty can be largely removed by expressly granting discretionary powers to the boards themselves. Simply as a matter of logic, it may be stated that the authority to grant a permit must carry with it the discretion to refuse, otherwise the permit provision of the pharmacy acts would be merely revenue measures, and probably illegal, as the raising of public revenue in any such manner might not be a proper exercise of the police power, and the police power of the state is the authority underlying all legislation of this character.

On November 16, 1936, the Supreme Court of Massachusetts upheld the constitutionality of a Massachusetts statute under which an administrative board had refused to renew a license of a drug store and a department store to serve food on the premises. In the act under review, it was specifically provided that the licensing authorities were not compelled to grant licenses "if in their opinion the public good does not require it." The Board of Licensing Commissioners refused the license, and one of the grounds of the decision was "that there are already too many licenses as common victuallers" in the town to which the permit applied. It was pointed out,

too, that "the methods of business of the drug store and the department store had a tendency to lower the quality of food dispensed at restaurants in the city generally."

In the course of the opinion, the court reviewed the historical position of innkeepers, and stated that for a long time the position of an innkeeper was of a public character, and thus subject to public regulation and control. Because of this, the law governing the situation may not be considered analogous to that granting licenses for the conduct or operation of a drug store.

Nevertheless, the case is of the greatest interest because, under the statute itself, licenses may be denied, if, in the opinion of the licensing authority, the public good does not require it. It is my belief that legislation can be drawn, if indeed we do not already have it, making the issuance of a permit for the operation of a drug store a matter within the sound discretion of the board of pharmacy.

It is interesting to note also that the term "drug store" is not defined in many state pharmacy acts, but in the greater number of instances, where it is defined, there is wide diversity in the language itself, although there has been marked improvement in this phase of our pharmacy laws in recent years. For this reason, the opinion rendered by the Supreme Court of Indiana on April 29, 1937, is of more than passing significance.

On June 6, 1935, the State of Indiana filed an affidavit against the Carroll Perfumers, charging it with operating a drug store without first having obtained a permit so to do from the Indiana Board of Pharmacy. In the trial court, the verdict was in favor of the state, and this judgment was affirmed on appeal.

Section 1 of the Pharmacy Act of Indiana reads as follows:

"From and after the first day of July 1927, it shall be unlawful for any person, firm, corporation or copartnership to operate, maintain, open or establish any drug store, pharmacy, pharmacy department or apothecary shop in this state without first having obtained a permit so to do from the Indiana Board of Pharmacy."

In the opinion of the court, it would appear that a drug store is a perfectly definite things and that it does not necessarily require statutory definition. This decision is one of unusual interest, and should be read in full. It goes back for its authority to Biblical times, and quote, liberally from the classics.

The decision is of more than ordinary importance to us, however, because so-called "patent medicine stores," "perfume shops," "cosmetic shops," etc., have sprung up in many states, and their status under the law has never been satisfactorily settled. These concerns handle many products which are handled in drug stores, and which certainly should be classified as drugs or medicines. In addition to this, such concerns frequently make every effort to simulate the appearance of the drug store. This indefinite status has resulted in confusion in the public mind, and, I believe, has been detrimental to the interest of legitimate pharmacy as well as the public.

This decision of the Supreme Court of Indiana would appear to justify the conclusion that many of the border line concerns, above referred to, constitute pharmacies within the meaning of the law, and thus should be compelled to operate in accordance with the provisions of the pharmacy act.

Inasmuch as the statutory requirements of the pharmacy acts have not been the subject of judicial interpretation and review, it would seem that some effort should be made to bring additional cases, so that we might have the benefit of judicial opinion. For instance, in many states it is distinctly provided that a pharmacy or drug store is any place where drugs, medicines or poisons are compounded, dispensed, prepared or sold.

The pharmacy acts also contain certain exceptions and exemptions, which, on the surface at any rate, appear inconsistent with the theory and purpose of the pharmacy laws, if not actually in conflict with the letter of these laws. For instance, general merchants are permitted to sell patent and proprietary medicines and the commonly used household and domestic remedies. In some instances, notably West Virginia, general merchants are permitted "to sell patent and proprietary medicines, and such ordinary drugs, in original packages.....as are usually sold in a country or city store."

Obviously, if any retail store selling drugs, medicines or poisons is a pharmacy, then it must necessarily follow that patent and proprietary remedies, commonly used household and domestic remedies, and drugs which are ordinarily sold in country stores cannot as a matter of fact be drugs at all, or else the establishment so selling them would be a pharmacy under the law.

On the other hand, every rule of reason would include patent and proprietary remedies, commonly used household and domestic remedies, and drugs which are ordinarily sold in country stores within the general classification of drugs.

I must admit that I have never seen this view presented, nor has it, so far as I know, ever been before a court for judicial review. However, the point which I have raised seems to me to go to the very heart of our pharmacy acts, and illustrates again the great unexplored territory the pharmacy acts, as a general rule, represent. I should like to see a well-prepared case presented turning on this point. I should like to know by what rule of interpretation the court would decide that commonly used household and domestic remedies are not drugs, when, as a matter of fact, they conform with complete accuracy to the definition of the term "drugs." Obviously, if patent and proprietary medicines may be sold by any person, they themselves cannot be considered drugs, notwithstanding the fact that the food and drugs act of every state, as well as the federal government, includes them within this classification.

One of the rules of judicial construction is that, if a thing is not within the spirit of the law, it is not within the letter of the law. Applying this rule to our situation, it certainly must be true that the general provisions of the pharmacy acts depend upon one philosophy, while the exceptions and exempt provisions certainly rest upon a contrary philosophy. The real spirit and purpose of the pharmacy acts will not be realized until this basic inconsistency is removed entirely, and the conflict resolved in accordance with the demands of public health.

As I have remarked on a number of occasions, one of the most dangerous defects in our pharmacy laws is that provision which gives synonymous meaning to the terms "patent" and "proprietary remedies." There was a time, of course, when there was no real distinction between patent and proprietary medicines. They were the medicines advertised direct to the public by the manufacturer for self medication in the absence of medical advice, and had a status recognized by all. In recent years, however, with the growth of the large manufacturing pharmaceutical houses, there has come upon the market a large group of proprietary preparations, many of which represent years of research study, and most of which are not adapted to self medication in the absence of medical advice. The products to which I refer are rarely, if ever, advertised direct to the public by the manufacturer. Many of them are potent and poisonous, and have little or no similarity with what is ordinarily known as a patent medicine.

However, just so long as the terms "patent and proprietary medicines" are looked upon as synonymous, just so long will the pharmacy acts fail to afford the public that degree of protection for which they were primarily designed. In order to make the matter still more confused, the term "proprietary medicines" is so defined in the pharmacy acts as to be practically all inclusive. For instance, the Pharmacy Act of the State of New Hampshire contains the following definition for proprietary remedies: "Proprietary remedies, when not otherwise limited, mean remedies that a certain individual, or individuals, have exclusive right to manufacture or sell." It would be difficult to employ language which would be more inclusive or more dangerous, because certainly this completely eradicates the distinction which has grown up between patent and proprietary medicines.

The same thing might be said of the definition of proprietary articles, as it appears in New and Nonofficial Remedies:

"The term 'proprietary article,' in this place, shall mean any chemical, drug or similar preparation used in the treatment of diseases, if such article is potected against free competition, as to name, product, composition or process of manufacture by secrecy, patent, copyright or by any other means."

The matter is dealt with somewhat differently in the Sanitary Code of New York City.

"The expression 'proprietary or patent medicine,' for the purposes of this section, shall be taken to mean and include every medicine or medicinal compound, manufactured, prepared or intended for external or internal human use, the name, composition or definition of which is not to be found in the United States Pharmacopœia or National Formulary, or which does not bear the names of all of the ingredients to which the therapeutic effects claimed are attributed and the names of all other ingredients except such as are physiologically inactive, conspicuously, clearly and legibly set forth in English on the outside of each bottle, box or package in which the said medicine or medicinal compound is held, offered for sale, sold or given away."

While this certainly does considerably limit the field of patent and proprietary medicines, as these terms are defined in the New York Sanitary Code, it does not attempt any differentiation between them, but on the other hand regards them as synonymous.

A somewhat different approach is taken in the Pharmacy Law of the State of Virginia, as is shown from the following quotation from the act:

"The term 'patent or proprietary medicines,' as used in this chapter, shall include only medicines prepared according to a private formula or a secret process or under a trade-mark of the manufacturer or owner, and sold under a trade name in an original package on which appear the disease or diseases for which the medicine is intended to be used and specific directions for its administration."

It will be noted that this language, while more appropriately designating a "patent medicine," attempts to make "patent" and "proprietary" synonymous terms.

It must follow from these definitions of "proprietary remedies" and "patent and proprietary remedies" that no real headway will be made in confining the distribution of drugs and medicines to legitimate professional hands until there is a sharp change in our legal terminology with respect to patent and proprietary medicines. In this connection, it is interesting to note a case recently decided by the highest court of New Jersey. A manufacturer sought to market a modification of Solution of Citrate of Magnesia under the title of Duke's Magnesia Citro-Tartrate on the ground that Duke's Magnesia Citro-Tartrate was a proprietary medicine, and thus entitled to unrestricted sale. Looking upon this as a mere evasion of the New Jersey Pharmacy Act, the New Jersey Board of Pharmacy brought action against dealers handling this product. Under the New Jersey Pharmacy Law, the sale of drugs, medicines and poisons without the supervision of a registered pharmacist is unlawful. However, as in all State pharmacy laws, the sale of non-poisonous patent and proprietary medicines is exempt from the provisions of the act. The court in this case recognized the distinction between drugs and proprietary medicines.

In the course of the court's opinion, it is stated:

"For all essential purposes, Duke's Magnesia Citro-Tartrate is the same as the original citrate of magnesia, except that it is slightly adulterated, and is of a slightly less potent character.

"There is no reason that I can see why Duke's Magnesia Citro-Tartrate should not be subjected to the same selling regulations as the ordinary citrate of magnesia. I do not think that the difference in the composition of the two is sufficient to stamp the complainant's product as a proprietary medicine which comes within exception of the Act.

This question also came up for discussion in Minnesota, and I am taking the liberty of incorporating in this address a letter from the Honorable William S. Ervin, Attorney General, of that state to the secretary of the Minnesota Board of Pharmacy, in which this matter was dealt with in a very interesting and convincing manner.

"We herewith acknowledge receipt of your letter of May 26th.

"In your letter you state: 'We are finding an abuse very prevalent, especially in beer parlors all over the state, in the sale of preparations known as Aspirin Compounds. These Compounds are usually a combination of Aspirin with different drugs, such as Acetanilid, Phenacetin and Caffeine, either one or two combined with the Aspirin. The same are being called by different names, to-wit: Asperline, Aspertain, Aspercyn, etc.'

"You ask whether the retail sale of Aspirin Compound Tablets by other than a registered pharmacist is contrary to law.

"We answer your question in the affirmative, subject to the recognized exceptions contained in the Pharmacy Act.

"Sections 16 (*a*) of Chapter 354, Laws of 1937, makes it unlawful 'for any person to compound, dispense, vend or sell at retail, drugs, medicines, chemicals and/or poisons in any place other than a pharmacy, except as hereinafter provided.'

"Section 27 (*a*) of Chapter 354 exempts physicians, dentists and veterinarians from the operation of the act. Section 27 (*d*) contains further exemptions from the act as follows:

" 'Nothing herein shall apply to or interfere with the manufacture, wholesaling, vending or retailing of non-habit forming, harmless proprietary medicines when labeled in accordance with the requirements of the State or Federal Food and Drug Act.

"Section 27 (*e*) provides for the licensing of stores in municipalities where there is no drug store, in which stores certain drugs may be sold.

"The question is whether aspirin compounds are proprietary medicines within the meaning of Section 27 (*d*).

"It is our opinion that they are not proprietary medicines and consequently do not come within the exception stated in Section 27 (*e*). In the case of State *vs.* Zotalis, 172 Minn. 132, 214, N.W. 766, our supreme court held that aspirin was not a proprietary medicine. The court said: 'Aspirin is a coal tar product commonly kept in drug stores and is used and sold for medicinal purposes. It is a drug or medicine within the statute. It is not a proprietary or patent medicine.'

"The aspirin compounds referred to in your letter are mere subterfuges to evade the decision of our court in the Zotalis case. A very excellent statement is found in the cases referred to in your letter in which cases Judge Poirier of the Municipal Court of Minneapolis held that aspirin compounds are not proprietary medicines. Judge Poirier said: 'The sale of preparations of the type of aspirin under a different name or aspirin compounds, I consider a subterfuge which nullifies the fundamental purposes of the Minnesota Pharmacy Law, and it was not the intent of the Legislature to permit the sale of U. S. P. drugs or adulteration of same with drugs, which adulteration, in some cases are dangerous to health. . . . . 'Acetanilid, phenacetin, drugs sometimes combined with aspirin in these tablets, are recognized as heart depressants and the indiscriminate sale of it is often dangerous to the health of our citizenry. We must protect public health.'

"One of the fundamental reasons for the rigid requirements of the pharmacy law is found in the following statement of the court in the case of State *vs.* Woolworth Co., 184 Minn. 51, 237, N.W. 817: 'But the examination of the quality of medicine sold is not the sole purpose of having a pharmacist in charge. Many poisonous drugs and medicines may be sold in original packages. The pharmacist knows what drugs are poisonous. He is required to keep a record of sales of numerous poisonous preparations. If attentive to his duties, he will in some degree guard against mistakes and misuse. He must in the first instance determine whether an article called for is a poison requiring registry of the sale. He should know whether an article sold is a standard preparation made according to the U. S. P. formula or an adulterated and harmful preparation.' "

From the foregoing discussion, I am sure that all of us will gain a more satisfactory understanding of the work which confronts pharmaceutical law enforcement officials, and at the same time, reach a sounder appreciation of the vast unexplored regions embraced within the pharmacy acts themselves.

It will be the purpose of the Conference to keep abreast of developments in this field, so that those holding membership in it may have the benefit of up-to-date information on the many important questions with which enforcing agencies must of necessity deal.

At the conclusion of the Chairman's address a symposium was held on pharmaceutical law enforcement in the various states and some very interesting papers were read, the substance of which is set out in the following statements from the states indicated.

PHARMACY LAW ENFORCEMENT IN NEW JERSEY.

ROBERT P. FISCHELIS.

From the length of the list of those who are to participate in the program it is clear that a lengthy exposition of law enforcement procedures in any given state is out of order at this time. Hence I shall content myself with a few general observations and then indicate a willingness to be subjected to cross examination. After all the details of law enforcement procedures are not of general interest but there may be specific questions which law enforcement officials would like to ask of each other either for the purpose of reinforcing their own thinking and procedures or for the purpose of obtaining new information in a field in which they have previously had little experience.

The remarks to which I shall limit myself will deal largely with the philosophy of pharmacy law enforcement. We have developed a definite philosophy in New Jersey. It is based upon the concept that drugs and medicines are instruments in the promotion of the public health and welfare and as such they must be subject to the same regulations and ethical treatment as are other instruments in the field of medical care.

If we adhere to this concept we see no legitimate reason for the existence of a class of dealers in any kind of drugs and medicines except those who are skilled in the art and science of pharmacy and whose skill has been tested and certified by the state.

True enough, in company with all other states, our concept of the manufacture and distribution of drugs and medicines is not supported in its entirety by the pharmacy laws of the state, but this does not hinder us from promoting the public health and welfare by educational methods in addition to the methods of law enforcement. We are reconciled to the fact that the law follows rather than leads in the evolution of restrictive measures for the public welfare. Until abuses become sufficiently flagrant it is difficult to legislate against their possible occurrence. Having found it difficult to correct abuses in the handling of drugs and medicines which have not been anticipated by our law-makers, it has been our policy for some time to emphasize by educational methods the public hazards which accompany uncontrolled distribution of drugs and medicines.

It has been our further policy to break down the artificial line of demarcation between drugs and medicines and so-called patent or proprietary medicines. The term "drug and medicine," as I shall point out in a paper to be read later in the program of this session, encompasses all medicinal agents and the designation "patent or proprietary medicine" is absolutely unnecessary, unscientific and misleading. It is an anomaly that non-secret preparations should be hemmed in by elaborate restrictions whereas secret remedies are practically free from any regulation under the pharmacy laws. We emphasize this anomaly and wherever possible we endeavor to hold this situation up to public ridicule.

Another basic feature of our philosophy is the concept that the pharmaceutical profession must have its own house in order if it desires to obtain public respect and public recognition of the fact that drugs and medicines are more than articles of merchandise. We have been rather severe in our requirements and in our enforcement procedure with respect to equipment, cleanliness and professional atmosphere as far as licensed pharmacies are concerned.

Such things as combining the cooking and preparation of food in the same compartment where drugs and medicines are compounded, the use of the same cleaning facilities, utensils, sink, etc., is taboo. The storage of apparatus and drugs in toilet rooms and the use of sinks in toilet rooms for washing of utensils, which has been common practice to some extent in various localities, is likewise taboo. These may sound like requirements which are so perfectly obvious as to require no comment, but it is a remarkable fact that plumbing facilities and the general equipment of stores for laboratory purposes have been woefully inadequate because of refusal of landlords to make necessary changes until and unless pressure is brought from the law enforcement agency. The use of the prescription department as a storeroom or a temporary receiving department for goods in shops of the cut rate and chain store type, is dealt with severely.

In short, it is our idea that pharmacies must be beyond reproach as far as the practice of pharmacy is concerned. Under such circumstances it is less difficult to obtain public approval for imposing definite restrictions upon the distribution of drugs and medicines and restricting them to places which they have reason to believe are adequately equipped and properly manned.

The paper was discussed by Messrs. Jackson, Collins, Gesoalde, Rothrock, Costello, Lasalle, Winne, Swain and Fischelis.

PHARMACY LAW ENFORCEMENT IN NORTH DAKOTA.

P. H. COSTELLO.

This statement of Law Enforcement in North Dakota deals with supervision of drug stores only. Lacking the financial means and adequate legal authority to undertake a program which would accomplish the purpose desired, the Board of Pharmacy turned to another agency within the state, The Food and Drug Commissioner, who is charged with the responsibility of seeing to it that all foods and drugs sold meet the state's legal standard requirements for these products and that proper sanitation is observed in connection therewith. Through a coöperative arrangement and by contributing a part of the expense incurred, a thorough survey of the conditions pertinent to Pharmacy and drugs was tabulated for the year of 1935 and 1936. Professional and technical equipment of all kinds was listed in the survey sheet for each store and a detailed inventory recorded in each case showing the conditions of the equipment. Store construction and maintenance was noted, condition of entrance, need of repairs or replacement and cleaning.

Drug and prescription stock, its arrangement and proper storage, cleanliness observed, disposition of doubtful preparations, methods of stock control and prescription case were given special attention. The source of supply for water and distilled water was recorded whether tested or not, with the option of having it tested if desired.

In the few cases of foods in drug stores, and soda fountains, particular attention was paid to condition of tables, work boards, proper washing and sterilization of glassware, dishes, silverware, disposal of garbage and general cleanliness observed and an entry made of the condition in each instance for each store.

A place was provided to indicate condition of the basement, its floors, walls, windows, ventilation, suitability and provisions for storing drugs, display material and empty bottles and their separation from fuel and furnaces.

Washroom and toilet facilities, their location, whether modern, clean, presence of soap and towels, was entered.

The number of prescriptions, refills, and narcotic prescriptions was asked and totaled and the percentage of total sales which these represented. Also the number of prescribers was recorded.

Finally, the objectional features and remarks were entered on the form and a copy left with the pharmacy. The record obtained was treated as confidental but a summary was compiled and distributed to each Pharmacy, showing in percentage, the interiors in need of redecorating, improper storage of biologicals, unsatisfactory basements, stores without the latest U. S. P. and N. F., prescription balances inaccurate to $^1/_2$ grain, weights inaccurate and other conditions. Prescription scales and weights were given prominence in the report showing the number in good condition, number which could be adjusted or repaired, number in need of replacement, number of army type balances in use, number of analytical balances, number of stores without balances, and the extreme error of the poorer scales.

Inspection of prescription balances and weights revealed a condition for immediate attention. The large percentage of weights unsatisfactory due to dirt and corrosion gave cause for recommending a method for their proper cleaning.

Each Drug Store proprietor then had some realization of the influence his store had upon the summary, and a stronger realization of the necessity for making certain improvements.

The 1936 Inspection Blank contained 129 inquiries, and an additional 21 for cases where food was served, all compared to the previous year.

The comparison of the summaries for the two periods showed encouraging improvements, especially in regard to the conditions, of balances and weights and number of new ones, in the storage of biologicals, in the number of doubtful pharmaceuticals destroyed, the number at fault being reduced by one-half. Making use of the Maryland list of minimum technical equipment and a score sheet revealed the percentage, or degree to which this minimum was being maintained and the need for some measure to compel a definite standard. The 1937 legislature granted this in the form of a Pharmacy Registration and Permit Law setting forth certain requirements and giving the Board of Pharmacy authority to make others necessary for obtaining a permit.

This gives the continuation of this kind of supervision an official standing and compels an improvement in all instances where it has not been made voluntarily.

The percentages and figures are withheld purposely from this statement but any survey of this kind reveals conditions which cannot long go unchallenged if not corrected.

The paper was discussed by Messrs. Lasalle, Swain and Murdock.

PHARMACY LAW ENFORCEMENT IN MINNESOTA.

VICTOR E. FEIT.

For some years Minnesota has had an active campaign to aid in the elimination of sale of drugs in other than drug stores. When Mr. John W. Dargavel, now our able secretary of the National Association of Retail Druggists, was secretary of our State Board, he carried an aspirin case to the State Supreme Court and received a decision favorable to the Minnesota State Board of Pharmacy. Mr. Dargavel also successfully prosecuted a Milk of Magnesia case in the Minnesota courts.

To take full advantage of these victories, our Board has in the last few years tried to carry on a militant educational campaign through the mediums of personal contact and publicity in both the daily and country press. We have been most fortunate in obtaining the coöperation of the newspapers, due to the excellent contact work of L. J. Cleary, our chief inspector, who is here with us at this convention.

I have with me here a scrap book that will probably give you a somewhat better picture of the results of our program, if you are interested in same.

This Spring, through organized efforts, we were most fortunate to pass a new pharmacy law. We had the support of leaders in the grocery, hardware, automobile and other fields of retail trade. A program of organizing these groups had been carried on during the previous two years. These efforts surely bore fruit as we were able to also pass a Fair Trade Bill, an Unfair Trade Practice Act, a Chain Store Tax and defeat the obnoxious Sales Tax Program.

The sale of substitutes for Aspirin under such various names as Asperline, Aspertain, etc., in beer parlors, cafés, restaurants and grocery stores, we found had become more and more prevalent. With the passage of the new pharmacy law, we took a case into municipal court in the City of Minneapolis. In presenting this case to both the prosecuting attorney and the judge, Mr. Cleary impressed them with the fact that we were not interested particularly in the fine, but in the elimination of these practices detrimental to the general public health.

Finding the defendant guilty, Judge Poirier of the Municipal Court of Minneapolis made the following statement:

"The sale of preparations of the type of aspirin under a different name or aspirin compounds, I consider a subterfuge which nullifies the fundamental purposes of the Minnesota Pharmacy Law, and it was not the intent of the Legislature to permit the sale of U. S. P. drugs or adulteration of same with drugs, which adulterations, in some cases, are dangerous to health.

"Drugs according to the Minnesota law should be sold in drug stores under the supervision of a Registered Pharmacist, so that the public health is better protected. Only recently a case where strychnine was sold when quinine was called for resulted in several deaths in the family.

"Acetanilid, phenacetin, drugs sometimes combined with aspirin in these tablets, are recognized as heart depressants and the indiscriminate sale of it is often dangerous to the health of our citizenry. We must protect public health."

Our secretary then requested an opinion from the attorney general in a letter as follows:

"We are finding an abuse very prevalent, especially in beer parlors all over the state, in the sale of preparations known as Aspirin Compounds. These Compounds are usually a combination of aspirin with different drugs, such as acetanilid, phenacetin and caffeine, either one or two combined with the aspirin. The same are being called by different names, to-wit: Asperline, Aspertain, Aspercyn, etc."

In reply he received the following opinion:

"You ask whether the retail sale of Aspirin Compound Tablets by other than a registered pharmacist is contrary to law.

"We answer your question in the affirmative, subject to the recognized exceptions contained in the Pharmacy Act."

We have completed educational campaigns of personal contact and publicity in Minneapolis, St. Paul, Duluth and other cities and rural villages in Minnesota, and have probably contacted close to 10,000 outlets. The various offenders generally thank our inspectors and throw out these preparations. We also inform them that dispensing Bromo-Seltzer, Alka-Seltzer and preparations of like type, are illegal. We hope soon to have every county in Minnesota covered. Then we will re-check and go in for prosecutions and publicity to a greater degree.

The members of the Minnesota Board, the pharmacists of Minnesota and the leaders in pharmacy, feel we are fortunate to have men in charge of enforcement who are able to get the support of prosecuting judges, newspaper men and public opinion, because of an intelligent presentation of the pharmacy law for the benefit of public health.

Under the new pharmacy law we are registering drug stores at an annual fee of $3.00. We are also registering stores, other than drug stores, in villages and townships not having a drug store wherein may be sold a limited number of drugs which have been designated by the Board, thus coming under our jurisdiction. The fee for registering these stores is $1.00.

I have a number of four-page pamphlets which any of you may have. We have distributed over 10,000 of these in beer parlors, cafés, grocery stores, etc., in various sections of Minnesota, to date.

I thank you for your courtesy, and if there are any questions, I shall be glad to answer them to the best of my ability. And if you are further interested, you may discuss same personally with Mr. Prochaska, our secretary; Mr. Cleary, our chief inspector; or myself.

PHARMACY LAW ENFORCEMENT IN MAINE.

BURTON K. MURDOCK.

I feel honored on my first appearance in this body as a member of the Commission of Pharmacy of Maine, to address you briefly, on the subject of pharmacy law enforcement in my state.

For many years Pharmacy in Maine has labored under a very discriminatory act requiring the registration of poisons sold in the drug store, but releasing this obligation to all other outlets. All attempts to amend this provision have failed until this year. The Maine Pharmaceutical Association is the oldest state organization of its kind in the United States to my knowledge. Like many other organizations it failed to get proper coöperation from its members, therefore its leadership, however capable, failed in pharmacy law revision. The Commission of Pharmacy did not even have the authority to control its own house. Poisons could be sold or given away without record. We considered we possessed the weakest pharmacy laws in the country.

In the years 1936–1937, through the combined efforts of the Maine Pharmaceutical Association and the Commission of Pharmacy a bill was drafted and fought on the fundamental of public health, and rightly so. The draft did not present the slightest tinge of commercialism. It presented a thorough revision of the section regarding the sale of poisons. It dealt heavily in regard to signs and advertising. It put power into the Commission in regulating the sale of medicinal preparations in other than registered drug stores. It confined the sale of poisons, other than insecticides, to the registered drug store where the record of sale is recorded. It outlawed the so-called "medicine show," and confined the sale of exempt narcotic preparations to the drug store. After a bitter fight in the Legislature it passed without amendment, was signed by our druggist Governor, Hon. Lewis O. Barrows, and became a law July 23rd.

At this time the enforcement of this act has not really begun. There is much work for the Commission on educational lines before real enforcement can begin. In this connection we have published the law in book form, also sheets explaining various sections. Maine being about 75% rural necessitates some remedial preparations be sold in outlets other than drug stores. After careful consideration the Commission has released a list to these stores in remote areas or in towns where there are no drug stores. The list may be deleted or added to as the occasion may demand. I trust next year some gentleman from Maine will give you a real pharmacy law enforcement program that may be helpful to all.

PHARMACY LAW ENFORCEMENT IN NEW HAMPSHIRE.

Mr. George A. Moulton of the New Hampshire Board of Pharmacy reported verbally on the pharmacy law enforcement in New Hampshire and paid special attention to their efforts to secure modern pharmaceutical legislation in their state.

He gave a detailed description of the provisions of the bill which the Pharmaceutical Association of New Hampshire had sponsored, the effect of which would have been to empower the Board of Pharmacy with authority to designate additional drug products other than those designated in the bill itself, which might be sold by others than registered pharmacists.

Mr. Moulton stated that the bill was very vigorously opposed but he believed that real progress had been made because the Board of Health of New Hampshire had actively supported the legislation and real progress had been made in directing the attention of the Legislature to the public health phases of drugs and medicines.

Mr. Moulton said that the pharmacists of his state were in no sense discouraged but were making a more vigorous effort to secure legislation which would afford the public the protection which it needs in the distribution of medicinal preparations.

PHARMACY LAW ENFORCEMENT IN WEST VIRGINIA.

Mr. C. W. Collins of the West Virginia Board of Pharmacy spoke briefly of pharmacy law enforcement in West Virginia. He stated that they had had a number of prosecutions in recent months and that in two instances the Board had revoked permits of certain drug stores in that state. The cases had been appealed and Mr. Collins said he did not know just what the outcome would be but that he was certain the cases had been well prepared and that the Board's action would be sustained.

Mr. Collins said that if the Board's action was sustained it would indicate that the Board of Pharmacy of West Virginia was vested with discretionary powers in the granting of drug store permits and once this principle was established he said he looked for much better conditions in his state.

Mr. Nicholas Gesoalde and Dr. Hugo H. Schaefer made a verbal statement regarding law enforcement in New York and laid emphasis on the various biils of pharmaceutical interest which had been before the New York legislature that year.

It was pointed out that chief interest was given to the "wholesale Dunkle Bill" the effect of which would have compelled wholesalers to restrict their sales of medicinal preparations which were habit forming, deleterious or poisonous, to retail pharmacists. It was pointed out that this bill did not pass but that it would be continued as a major legislative objective of the New York Pharmaceutical Association.

At this time, Chairman Swain introduced Dr. R. B. J. Stanbury, secretary of the Canadian Pharmaceutical Association. In rising to speak Dr. Stanbury said that he had attended many many meetings of the AMERICAN PHARMACEUTICAL ASSOCIATION but that he really believed that this session of the Law Enforcement Conference was the most interesting experience he had ever had at one of these national gatherings.

He said that it was apparent that American pharmacy was awake to the defects in the system of pharmaceutical legislation and equally wide awake in its efforts to remedy the situation. Dr. Stanbury said that he was particularly interested in legislation empowering the Board of Pharmacy to prescribe the technical and professional equipment which all drug stores should possess. He said he knew there was a crying need for legislation of this kind not only in the United States but in his country as well and that he believed that legislation toward this end was most constructive.

Mr. A. Norman LaSalle of the Rhode Island Board of Pharmacy gave a brief statement regarding pharmacy law enforcement in his state including a reference in which narcotic drugs are controlled in his state. Mr. LaSalle said he had not prepared a written paper but that he would be very glad to send copies of the Rhode Island Law to anyone who was interested and also to give any information which might be requested.

Mr. A. L. I. Winne, secretary of the Board of Pharmacy of Virginia, also made a verbal report on pharmacy law enforcement in that state and gave an interesting review of the conditions which led the Board to issue its regulation with respect to one-man drug stores. Mr. Winne said that in Virginia, as well as in most other states, there was a preponderance of one-man drug stores by which, Mr. Winne said, he meant drug stores having one registered pharmacist connected with it.

Experience in Virginia had shown that in practically every one of these one-man stores the law requiring a man on duty at all times is violated. Recognizing the facts as they are known to exist, the Virginia Board of Pharmacy, acting under its powers to make rules and regulations, issued a regulation under which the prescription and drug departments of one-man drug stores had to be segregated from other portions of the store in such a manner that they could be locked in the absence of a registered pharmacist.

The regulation went further and required that such departments should in fact be locked when the pharmacist was away and that a sign to this effect must be displayed in the store during the pharmacist's absence. Mr. Winne said that there had not been sufficient experience under the regulation to state definitely its advantages but that he was certain that it was a step in the right direction and would be generally helpful toward maintaining a more satisfactory observance in Virginia.

The First Session came to a close with a presentation of the following paper by Mr. Lew Wallace, secretary of the Mississippi State Board of Pharmacy.

THE PUBLIC'S PROBLEM IN PHARMACY LAW ENFORCEMENT IN MISSISSIPPI.

There was a time in the history of medicine selling in Mississippi when the public had a great deal of respect for the practice of pharmacy and little, if any, interest in ready-prepared preparations.

To-day, the people will try one medicine and another and suggest that their neighbors do likewise, never taking into consideration the fact that the drug used may be harmful. While this situation is due largely to the impulse of the average layman to embark upon a heroic, though often disastrous effort to help his neighbor, still, it has its foundation in the fact that the men responsible for pharmacy have not fulfilled their obligation to the profession and the public.

If pharmacy had been properly upheld in the minds of the people and the secrets that rightfully belong to medicine had been preserved, the mystery that once surrounded chemicals and galenical preparations would not have disappeared and the public would not be willing to accept, without thought of consequence, even the most dangerous compounds.

Since many of the drugs in use to-day have a habit-forming, demoralizing and degrading effect on life, the public has a real problem to face due to the fact that proper laws regulating the distribution and sale of medicines have never been placed on the statute books of this state.

This calls to mind the question of why there isn't proper supervision provided under the law for a field of such vital importance. There must be a reason.

Looking into the history of our State Pharmaceutical Association, I find that at the initial meeting in 1883 the druggists expressed themselves as having for their aim the uniting of the reputable pharmacists for mutual protection, assistance, encouragement and improvement. To encourage scientific research, to develop pharmaceutical talent, to elevate the standards of our professional thought and ultimately, to restrict the practice of pharmacy to properly qualified persons.

Soon after the turn of the century, when patent medicines first became popular, our history bears out the fact that Mississippi pharmacists threw aside these finer, better objectives to wage a campaign for the sole proprietorship of ready-prepared preparations that has continued through the years and spread its destructive influence to this day.

The public heard little about that first meeting of pharmacists in 1883 but when their policy was changed from upholding and standing by their profession to chasing a rainbow of false colors their activities were discussed in every country store throughout the state. The program, even in those early days, was to do by legislation that which should have been accomplished by practice and example. I am positively of the opinion that the pharmacists have for years done more to glorify patent medicines in the minds of the public than any and all other advertisements that have been given to them.

It wasn't long before our legislative efforts to restrict the sale of patent medicines to drug stores became the football of the politician and the standing joke for 99$^{3}/_{4}$% of our population.

While this situation was going on and our organizations were trying to withstand the adversities of a storm that raged without end, the practice of pharmacy was changing and slipping fast away.

When we awoke in Mississippi some three years ago we found that the once highly desirable prescription business had changed from the compounding of physicians' orders to the changing of labels and that a large percentage of the public were not depending on the best advice at the command before taking medicine. We found the public's problem to be as great as our own. Our failure to stand by the profession of pharmacy has destroyed the prescription business, forced the pharmacist into curb service activities, and caused the layman to accept medicine and pharmacy as just another dose of salts.

While we lost the respect and admiration of a justly critical public, the unsuspecting layman was left an easy mark for the chisler and the cheat. If, since 1883, the public had been educated to the dangers of medicine, we would not have a large percentage of our population addicted to strong drugs to-day. If, since 1893, we had advocated legislation to preserve and extend the boundaries of the practice of pharmacy to include all poisonous and dangerous drugs and medicines, instead of antagonizing the public by demanding a monopoly while we were in competition with every other class of trade, the people would have stood by us and seen to it that proper laws for the protection of our boys and girls, as well as our adults, were made a part of our state code.

By our own actions we bewildered the public mind and, if we are to ever reach such an objective as restricting the practice of pharmacy to properly qualified persons we must broaden our viewpoint in order to include legislation that will be beneficial for all of the people.

Almost all people during life are dependent upon medicines to maintain good health and in the average mind a greater appreciation of poisonous and dangerous drugs is much to be desired. The public is beginning to realize that they have been the victims of clever advertisements, unscrupulous manufacturers who prepare short-weight capsules, adulterated liquids and misbranded packages.

An alarming increase in nervous diseases and outright insanity has brought about recognition of the fact that many of the chemicals in common use to-day are habit-forming and destructive to life.

It was once generally believed by the layman that only morphine and cocaine were narcotic in effect.

During the past few years increasing notice has been taken by health officials of the cultivation of the drug cannabis, of the wide-spread use of habit-forming synthetic drugs, such as Barbital, the demoralizing and degrading effects of galenical preparations such as: spirits of camphor, tincture of sweet orange peel, sweet spirits nitre, bay rum and many others of high alcoholic content.

Investigations carried on over a period of many months have shown conclusively that three classes of dangerous drugs are being used in Mississippi. They are, the plant drugs, morphine, cocaine and cannabis, commonly called marihuana; alcohol, in the form of preparations mentioned; and the synthetic drugs.

Each time these drugs are taken except on the advice of a physician, a patient is taking a chance with health. Life is too precious to engage in a guessing contest and the public of Mississippi has already begun to realize their problem as shown in their outstanding efforts in 1936 to make the Uniform Narcotic Drug Act the law in our state. Many of our better citizens are assisting the pharmacists in carrying our message of this drug menace to the people.

While we are sure that an educational campaign conducted through the church, the home, the school, through the press and over the radio will go a long way to stop the increase in drug addiction, there is a certain percentage of our population that must be controlled by legislation. This percentage consists in part of people low enough to sell rubbing alcohol, bay rum and the like to our high school boys and girls for beverage purposes who through lack of interest or ignorance do not give heed to the fact that by doing so they begin the craving for drugs.

I am of the opinion that adequate pharmacy law protection in any state may be said to have been attained when the State Board of Pharmacy has a drug store permit law, limited license law, retail drug dealers permit law and the Uniform Narcotic Drug Act under its supervision with full authority to make and enforce needful rules and regulations in the field of pharmacy.

I am further of the opinion that the day is not far distant when the pharmacist will realize the error of his way and be ready to emphasize the necessity for legislation that will relieve the public of drug addiction.

When this happy day is at hand, I predict an overwhelming interest by the public in the prevention of the abuse of such drugs since it is daily becoming more apparent that vigorous measures should be taken for the extinction of the lethal weed, marihuana, as well as all other dangerous drugs.

To the end of enlisting the support of all public-spirited citizens in a movement to secure better pharmacy laws, I recommend that the Legislative Committees of the various Associations of Pharmacy advocate legislation that will DO something FOR instead of TO the public.

The Second Session of the Conference convened at 10:15 A.M. on Friday, August 20th, in joint session with the Section on Education and Legislation and the Conference of Pharmaceutical Association Secretaries. Chairman Swain presided.

The chief feature of this session was the following address by Robert P. Fischelis, Secretary and Chief Chemist of the Board of Pharmacy of the State of New Jersey.

WHAT IS A PATENT OR PROPRIETARY MEDICINE?

The Constitution of the United States, in Article I Section VIII enumerates among the powers of Congress the following: "The Congress shall have power to promote the progress of

science and useful arts by securing for limited time to authors and inventors the exclusive rights to their respective writings and discoveries."

Under this Section of the Constitution the Congress has passed our patent and trade-mark laws. An inventor of a new and useful thing is given the right to make and sell it for a period of seventeen years. A patent is essentially a contract between the government, representing the public, and the inventor. In return for the disclosure of his invention, the government protects the inventor by giving him a monopoly on the making and selling of his invention for a term of seventeen years. The monopoly granted is not the right to make the article discovered because the inventor possesses that right anyway. The monopoly consists in the right to exclude others from making, using or selling any embodiment of the patented invention during the life of the patent.

Here we have laid down by the Congress of the United States, acting under the Constitution, a definite policy with respect to inventions of new and useful things.

Contrary to the general assumption that the discoverer of a new and useful thing is entitled to exclusive and perpetual rights therein, the policy of the United States government and of all governments is based upon the assumption that a new discovery belongs to the people, but as a reward for the disclosure of the discovery, the inventor can exclude, by means of letters patent, acquired in a lawful manner, any other person from enjoying the fruits of his discovery for a limited period.

It is expected that at the end of seventeen years the inventor shall no longer enjoy the monopoly under the patent law, although careful and judicious marketing policies will give the inventor a leading advantage over competitors who may decide to avail themselves of the use of any product on which the patent has expired.

In the field of drugs and medicines, the term "patent" has come to have an added significance. Not often does it refer to a medicine or drug on which a patent has been issued. There are, of course, newly developed chemicals, or processes for the manufacture of chemicals, on which patents can be secured. However, there is no such thing to-day as a "patented" medicine in the sense that the formula for preparing a mixture of drugs has become the basis for issuance of letters patent. The United States Patent Office has not been granting patents on mixtures of drugs in recent years, although such was the case in its earlier history.

In this connection it is interesting to examine the dictionary definition of the word "patent." Its meaning is given as follows: "Lying open—open—public—manifest to all—unconcealed—obvious—conspicuous; open to perusal of all, as letters patent; appropriated by letters patent; secured by law as an exclusive privilege; restrained from general use; patented; an official document—letters patent—conferring or granting a privilege; a patent of nobility; a patent conferring right to engage in a particular trade usually to the exclusion of others; a letter of indulgence; a pardon."

Anyone having to deal with laws enforcing regulations with respect to drugs and medicines would be intrigued by the first definition given. A patent medicine, so-called, is anything but a product of which the composition is revealed or which has a formula "open to perusal of all." Common parlance has given the word "patent" with respect to medicines a meaning which is the exact opposite of its dictionary definition, for, patent medicines are generally considered secret formula products rather than open formula products.

The trade-mark laws of the United States have been employed in a very adroit manner to perpetuate the monopoly on patented products. If the individual who registers a trade-mark for a patented product is careful enough to apply his trade-mark in such a manner that it will indicate the brand of the patented product rather than the patented product itself, he can acquire unlimited exclusive rights to the brand name and by clever advertising he can continue to enjoy a virtual monopoly on a given product even after his patent rights have expired. Let me illustrate: The term "aspirin" was made synonymous with acetylsalicylic acid from the beginning of the marketing of that product in the United States. A patent was obtained on acetylsalicylic acid but the manufacturer popularized the product under the name of "aspirin" and "aspirin" became the accepted name rather than the brand name for acetylsalicylic acid manufactured by the holder of the patent. Accordingly, when the patent expired the term "aspirin" had acquired a place in the language of commerce and in the language of medicine. Exclusive right to the word "aspirin" could not be vested in the originator of the product after the patent had expired because

he had not taken the trouble to preserve the word "aspirin" as his brand name of acetylsalicylic acid.

The introducer of phenobarbital, on the other hand, was very careful to popularize the name "luminal" as the name of his brand of phenobarbital, and when the patent on this chemical expired the trade-mark "luminal" remained in effect and was renewable and is renewable at twenty-year intervals so that other manufacturers of phenobarbital may not use the trade-mark "luminal."

It can readily be gathered from even this superficial discussion of the subject that it is possible by the use of coined trade names registered with the United States Patent Office as trade-marks, to go a long way toward perpetuating a monopoly on a given drug or chemical. By means of advertising and propaganda, the brand name of the product is made familiar to consumers over a period of seventeen years, and it is then very difficult for others who endeavor to manufacture the product at the expiration of the patent to convince consumers that their product is not an inferior substitute. However, there is greater opportunity to-day through advertising to break-down the monopoly granted by way of trade-marks, and there would be ever greater opportunity along this line were it not for the tacit understanding among the better class of manufacturers of drug products not to appropriate one another's patented products upon expiration of the patent.

Practically every pharmacy law in the United States makes a distinction in the regulations of the sale of drugs and medicines and the manufacture and sale of so-called patent and proprietary medicines. The regulations with respect to the sale of drugs and medicines are stringent. The regulations with respect to the production and sale of so-called patent or proprietary medicines are very loose. Legislatures enacting pharmacy laws for the first time, some seventy or more years ago, were importuned to restrict the sale of drugs and medicines to registered pharmacists or persons working under the supervision of registered pharmacists. The patent medicine industry was sufficiently well organized, even in those days, to have inserted in all of these laws a provision completely exempting patent or proprietary medicines from the provisions of such laws. The terms "drug" and "medicine" are generally defined in these laws along lines of the definition in the Food and Drugs Act. However there is in general no definition given for patent or proprietary medicines.

When a definition is given, it is usually so worded as to include anything worth including as far as the patent medicine manufacturer is concerned and to exclude anything which would burden such manufacturer with any restrictions or responsibilities.

A definition for patent or proprietary medicine which has become a classic from the legal standpoint because it was handed down in an early court case involving an alleged violation of a state pharmacy law is that given by the Supreme Court of the State of Minnesota in the Donaldson case. It reads as follows:

"It is a matter of common knowledge that what are called 'patent' or 'proprietary' medicines are prepared for immediate use by the public, put up in packages or bottles, labeled with the name and accompanied by wrappers containing directions for their use, and the conditions for which they are specifics. In this condition they are distributed over the country in large quantities and sold to consumers in original packages, just as they are purchased by the dealer, without any other or further preparation or compounding."

The American Medical Association through its Council on Pharmacy and Chemistry has adopted the following definition: "The term 'proprietary article' shall mean any chemical, drug or similar preparation used in the treatment of disease, if such article is protected against free competition, as to name, product, composition or process of manufacture by secrecy, patent, copyright, or in any other manner."

The Commission on Proprietary Medicines of the AMERICAN PHARMACEUTICAL ASSOCIATION proposed the following definitions: "In its widest sense, a proprietary medicine is any drug, chemical or preparation, whether simple or compound, intended or recommended for the cure, treatment or prevention of disease, either of man or of lower animals, the exclusive right to the manufacture of which is assumed or claimed by some particular firm or individual, or which is protected against free competition as to name, character of product, composition or process of manufacture by secrecy, patent, copyright, trade-mark, or in any other manner."

This definition probably states the status quo correctly but if it were accepted as a legal definition the field of proprietary medicines would be greatly enlarged and that of "drugs and medicines" greatly restricted.

It is, of course, manifest to anyone who has studied the situation that most of the so-called proprietary and patent medicines are mixtures of well-known drugs devised to meet some condition which they are claimed to cure or relieve. The tendency to develop private formulas has been accentuated in recent years to the point where a pharmacist who is educated to prepare and compound medicines based on official drugs and preparations, finds himself in a position of great bewilderment when he attempts to practice his profession in a prescription room loaded with new combinations of drugs offered under fanciful names and with prescriptions from physicians calling for all types of combinations of official and unofficial drugs prescribed under names assigned to them by manufacturers and registered as trade-marks.

In order to avoid duplication of names by the manufacturers themselves, the American Drug Manufacturers' Association maintains a pharmaceutical trade-mark bureau with which the members of the ASSOCIATION can register new names made available to other manufacturers so as to avoid costly litigation or wasting of time in searching trade-mark records when it is necessary to coin a new name. A mere glance at this register under two important headings—Digitalis and Ergot—for example—will indicate the "Confusion of tongues" that prevails in the modern prescription department when an inventory is taken of these preparations and the difficulty met by the conscientious pharmacist who tries to keep in touch and up-to-date in this field.

The names for Digitalis preparations registered with the American Drug Manufacturers' Association follow: Digicar-dalis, Digicardium, Digidin, Digifol, Digifortis, Digiglusin, Digiloid, Digilutea Upsher Smith, Diginfuse, Digipit, Digipit No. 2, Digipura, Digiquin, Digirex, Digismith, Digitalex, Digitaligen, Digitalone, Digitan, Digitex, Digitol, Digitone, Digitora, Digitos.

The names for Ergot preparations registered with the American Drug Manufacturers' Association follow: Ergaloids, Ergo-Aloe, Ergoapiol, Ergoettes, Ergone, Ergonol, Ergophene, Ergophenol, Ergopit, Ergopit No. 2, Ergo-Quinine, Ergosekalo, Ergo-Stat, Ergot Aseptic, Ergotean; Ergot, Fluid Extract, "Formula of 1874;" Ergo-thaelin, Ergothesin, Ergotole, Ergotora, Ergot Potent, Ergotrate, Ergozin, Ergo Zinc Comp., Ergyne, Erpiol.

Two recent advertisements of so-called ethical proprietaries tell a significant story in a very few words. Parke, Davis and Company are advertising Kapseals Ventriculin with Iron and Vitamin B. The formula is given as follows: Ventriculin—5 grains, this is the proprietary name for Stomach now official in the U. S. P. The next ingredient is Naferon—2 grains, this is Iron and Ammonium Citrate Neutral and then there is some Vitamin B_1 and Vitamin B_2. This mixture is ready made and put up in capsules, but in order to identify the capsules a yellow capsule is used with a black band around the center which makes this a Kapseal rather than a capsule. Not only by coining a name for the ingredients, which are common official drugs, but also in the manner of dispensing did Parke, Davis and Company appropriate to itself the exclusive right to this formula. A pharmacist putting up Dried Stomach and Iron and Ammonium Citrate Neutral with Vitamins supplied in some form, in a plain gelatin capsule would be a substituter and guilty of a heinous offense. A general merchant selling Kapseals Ventriculin with Iron and Vitamin B would be wholly within his rights under the pharmacy laws because undoubtedly Parke, Davis and Company would claim that this is a proprietary preparation. The reference here has been to a medicine which would be prescribed by physicians ordinarily but which will soon become an article of commerce if it is found to be of any value in some special condition and the word is passed along from one patient to another. For the present, it will doubtless remain a prescription product, but the common patent medicines of to-day have been prescription products in the past.

E. R. Squibb and Sons have recently announced the marketing of an Ammonium Mandelate under the name of Mandamon. The Squibb brand of Ammonium Mandelate is trade-marked under the name of Mandamon. Apparently it is not sufficient to specify "Squibb" in connection with Ammonium Mandelate. The physician is importuned to prescribe this product under the name of Mandamon and hence the pharmacist who possesses a chemically pure Ammonium Mandelate in his stock would be considered a substituter if he were to supply this upon a prescription calling for Mandamon.

If there is to be any control over the sale of drugs and medicines, a way must be found to extend that control over all medicines, regardless of the fact that they are classified as "patent or proprietary preparations" through the arbitrary use of these terms in our pharmacy laws or through a conversion of the meaning of these terms to suit the purposes of manufacturers.

A good illustration of the further abuse of privileges granted in connection with the sale of patent or proprietary preparations is the insidious development of taking common official drugs and medicines, changing their formulas slightly, giving them fanciful names and palming them off as new discoveries to be sold without the restrictions that govern the sale of drugs and medicines. A case in point is the Citrate of Magnesia situation with which many states are confronted to-day.

The Crescent Bottling Works, of Newark, New Jersey, has been supplying general merchants with a product labeled "Duke's Magnesia Citro-Tartrate" which upon analysis was found to be a Solution of Citrate of Magnesia approximating the U. S. P. formula but somewhat deficient in Citrate of Magnesia according to the U. S. P. standard. Under the laws of New Jersey, Solution Citrate of Magnesia, being a drug and a medicine, can be sold only under the supervision of a registered pharmacist. By a slight alteration or adulteration of the U. S. P. product and giving it the name "Duke's Magnesia Citro-Tartrate," the attempt was made to classify this product as a patent or proprietary medicine which, under the laws of New Jersey, may be sold by anyone without supervision. The facts in the case were brought before the Court of Chancery of the State of New Jersey because the Board of Pharmacy had taken the position that Duke's Magnesia Citro-Tartrate was a medicine and a drug and not a patent or proprietary medicine within the meaning of the pharmacy act, regardless of the name which had been appropriated by the manufacturer. In the district courts, merchants who had sold the product were penalized when the Board demonstrated that the product sold was an adulterated Citrate of Magnesia preparation in a Citrate of Magnesia bottle but with a fanciful name. The manufacturer, considering himself aggrieved because such procedure led to reduction of sales, went to the Court of Chancery for the purpose of enjoining the Board of Pharmacy from enforcing the pharmacy act in accordance with its interpretation. A temporary injunction was granted but upon final hearing the Vice Chancellor hearing the case held that the product in question was merely common Citrate of Magnesia, a recognized drug preparation, slightly adulterated and of slightly less potent character, and hence within the prohibitions of Section 2 of the pharmacy act. Accordingly, he vacated the preliminary injunction and dismissed the bill.

The manufacturer carried the matter to the Court of Errors and Appeals, which is the highest court in the state, and this court upon reviewing the evidence gave it as its unanimous opinion that "on the evidence the above finding of fact is manifestly right." Accordingly, the decree was affirmed.

This indicates clearly that when the nature of the subterfuge practiced by manufacturers under the exemption clause of the pharmacy act is presented to the courts in its true light, they are not fooled. It also indicates that the clause in most pharmacy acts which exempts so-called patent or proprietary preparations from their provisions, is not iron clad but is in fact vulnerable if enforcement agencies will take the trouble and pains to establish the facts.

In the writer's judgment entirely too much has been taken for granted in connection with this exemption clause. It does not seem logical that the courts of the United States are willing to give the patent medicine manufacturer the benefit of every doubt all the time. In most instances where court decisions have been rendered on this subject there has not been as much expert testimony and expert legal guidance in the presentation of the case on the part of those opposing the patent and proprietary medicine interests as there has been on the part of these interests.

An illustration which might be cited is in the field of proprietary disinfectants. In some states it is unlawful for anyone to sell poisons except under the supervision of a pharmacist. Manufacturers of insecticides and disinfectants containing poisons have adopted the simple expedient of leaving off the word "Poison" in cases where their product is shipped into states requiring sales to be made under the supervision of pharmacists. A case in point is the product Klenol. First it was supplied in New Jersey with a poison label. When the company manufacturing this product became aware of the fact that the New Jersey law prohibits the sale of poisons except under the supervision of pharmacists, the product Klenol appeared without a poison label. It is the same product and the question arises, is it or is it not a poison?

Our Food and Drug Laws and our Pharmacy Laws are very specific in their requirements with regard to the sale of drugs and medicines and with regard to the manufacture of drugs and medicines. As matters stand to-day, the public receives ample protection by law where such

protection is least necessary. In the great field of so-called patent or proprietary medicines, almost anything goes and will continue to go until we correct the outworn classification of medicines into the present divisions of plain drugs and medicines with revealed formulas and patent or proprietary medicines with secret formulas. Such a classification is purely in the interest of manufacturers relying upon trade-marks and secrecy for the protection of their business interests and contrary to the public interest which demands revealed formulas in open competition for such types of self-medication as may be considered safe and harmless.

Some years ago the Committee on the Costs of Medical Care expressed itself on this question in the following words: "Drugs and medicines are of the nature of public utilities and their manufacture, sale and distribution should be regulated on that basis."

The first and most important effort in this direction should be the elimination of the arbitrary line of demarcation between drugs and medicines and patent or proprietary medicines. The terms "drug" and "medicine" encompass anything that might be conceivably prepared or distributed under the classification of patent or proprietary medicines. If we classify all remedial agents as drugs and medicines under our Pharmacy and Food and Drug laws, the public will receive equal protection in connection with all types of remedial agents. As soon as we create a separate classification, such as patent or proprietary medicines, whether these terms be synonymous or whether they are given individual meanings, we are drawing an arbitrary line for which there is no justification in law or in fact.

Manufacturers of so-called patent or proprietary medicines have created for themselves special privileges under the laws of the several states, which constitutes the rankest kind of class legislation and which no legislator can justifiably approve when he is confronted with the facts.

We need not deny a manufacturer property rights in patents for chemicals or drugs acquired in a legitimate manner. We may even be justified in procuring by law exclusive rights for limited periods to manufacturers for new discoveries and combinations which are not patentable and which contribute to the general welfare and to the progress of medical science and the healing arts. If the government of the United States and other governments throughout the world consider it a fair and equitable policy to limit the exclusive rights of inventors to their respective discoveries, why should these same governments grant to those who appropriate the discoveries and the fruits of the labor of others to themselves in perpetuity?

The legitimate drug industry exists as a sub-division of the medical professions. Its obligations to the people are fundamentally the same as the obligations of the professions which provide medical care. Its legitimate economic interests should be protected but it is not entitled to a permanent monopoly on the scientific achievements of others nor even on its own scientific achievements. To argue otherwise is to argue in favor of suspension of progress in medical science. That an unfair monopoly exists to-day is apparent to any unbiased student of the situation. That this unfair monopoly hangs largely upon an outworn, outmoded and arbitrary classification of drugs in our pharmacy laws, has not been fully recognized. The abolition of this outmoded and unfair classification is in the interest of the public health and welfare and should be brought promptly to the attention of every legislature in the United States with the proper supporting facts.

The above paper was discussed by Messrs. J. H. Goodness, Nathan Zonies, A. L. I. Winne, J. H. Beal, J. F. McCloskey and R. L. Swain.

At this time Chairman Swain called for a report from Chairman Winne of the Committee on Patent and Proprietary Medicines. The report follows:

"Although this committee is not in a position to report any progress during the past year it is felt that the submission of a report at this time is desirable.

The committee has done little work for some several years, and the chairman feels that the leadership of the committee could more profitably be transferred to other hands. A few years back we submitted a report which summarized the findings up to that time, after a careful survey of the pharmacy laws of all the states.

In that report we were able to present only facts as found, and we were not able to draw from these facts very much that might be helpful in drawing a line of demarcation between the so-called patent medicine and the proprietary medicine. In a few instances state laws seemed to make some superficial efforts to segregate the two. In several instances regulations had

tackled the problem, but with doubtful success. In most instances the two were treated as synonymous.

If our memory serves us well, we believe that it was suggested in our former report that if no way could be devised to have legally designated as patent medicines that group of remedies offered for self medication, and to have designated as proprietary medicines that group exploited through detailing of the medical profession, then some such arbitrary grouping should be attempted when having our laws amended as would definitely designate those medicinal products which it might be deemed proper to allow general merchants to sell, at the same time placing a prohibition on the sale of all other medicinal products except by licensed pharmacists.

From time to time we got a court decision that has some bearing, undoubtedly, on the local situation, but so far we have had little of a far-reaching character bearing on the solution of this very important phase of the drug business."

The above paper was discussed by Messrs. Goodness, Finneran, Freericks, Hunsberger, Fischelis and Swain.

Chairman Swain stated he would keep Mr. Winne's suggestions in mind and would revamp the committee and continue it.

The question of "Should Boards of Pharmacy Be Vested with Authority to Refuse Drug Store Permits on Grounds of Public Convenience" was discussed by Messrs. Goodman, Swain, Fischelis, Fred Schaefer, McCloskey, Kendig, Slocum and Finneran.

It was brought out that while there might be certain advantages in empowering the Boards with such authority, on the other hand it was the kind of authority which might be abused. The point was also made that any such powers might be regarded as an invalid delegation of legislative authority.

During the discussion it was brought out that various state agencies such as the State Banking Commission and the Public Health Commissions were empowered to deal with the matters under their jurisdiction in the light of the public convenience. It was agreed, however, that the legal basis underlying the operation of drug stores was not the same as that underlying banks and the operation of railroads.

The question of "Should Boards of Pharmacy Be Empowered with the Enforcement of Laws Which Are Purely Economic as Contrasted with Those of a Public Health Character" was discussed by Messrs. Winne, Slocum, Swain, Fischelis, Fred Schaefer and Shkolnik.

This question brought out the relationship of Boards of Pharmacy to the enforcement of State Fair Trade Laws, State Robinson-Patman Acts, and other acts of a similar character. The discussion was very interesting but did not result in any definite conclusion.

It was pointed out that members of the Board of Pharmacy are, as a rule, outstanding men in their respective states and thus that their personal prestige might be very helpful in the administration and enforcement of laws of an economic character. But, the general impression was that Boards of Pharmacy were brought into existence to deal with purely professional matters and that there was grave possibility of impairing this basic function if the powers of the Boards were broadened so as to include matters of business in trade.

The report of the nominating committee was submitted by Chairman Winne as follows: For *Chairman*, R. L. Swain; for *Secretary-Treasurer*, M. N. Ford; for *Delegate*, J. B. Pilchard.

Chairman Swain asked if there were any other nominations from the floor—there being none he declared the officers elected.

Chairman Swain stated the Finance Committee would be continued.

At 12:15 noon the Session was adjourned.